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EXAMINER

CHEN, SHIN HON

ART UNIT	PAPER NUMBER
2131	

DATE MAILED: 07/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/992,924

Applicant(s)

WEIMERSKIRCH, ANDRE

Examiner

Shin-Hon Chen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3 is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

1. Claims 1-19 have been examined.

Allowable Subject Matter

2. The following is an examiner's statement of reasons for allowance: Claim 3 is allowed.

The prior art of record discloses watermarking method for copy protection schemes which utilizes strong and weak watermarks. However, the prior art of record does not explicitly disclose providing a preliminary authorization of a rendering of the data sequence if the determinations in steps c and d are both positive; and denying rendering if at least one of the determinations in steps c and d are negative in light of other features disclosed in independent claim 3.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

4. A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 2, and 4-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Cookson U.S. Pat. No. 6591365 (hereinafter Cookson) in view of Bersson U.S. Pat. No. 6081897

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(hereinafter Bersson) and further in view of Spitzenberger et al. U.S. Pat. No. 5930209 (hereinafter Spitz).

6. As per claim 1, Cookson discloses a method for determining the authorization of the rendering of a digital recording comprising at least one data stream to be rendered, said data stream being contained a track having a number of track sections positioned sequentially, including a first track section and a last track section, said data stream being distributed through each of said track sections, each track section including a sequence ID for identifying the sequential position of the respective track section in the track, said data stream being mixed with watermark data having at least one reserved bit corresponding to a position in each of the track sections, the reserved bit corresponding to a position in each of the track sections, the reserved bit being marked in the watermark data corresponding to the first track section and the last track section, the method comprising the steps of: decoding a watermark and determine if the fragile watermark has been tampered (Cookson: column 4 lines 35- 54: using the weak watermark bits to determine whether it is copy protected). Cookson does not explicitly disclose a) identifying a first section and a last section of a track in the track containing the data stream to be rendered; b) decoding a watermark from the first and last sections of the track; c) determining if at least one reserved bit is marked in the watermark in each of the first and last sections of the track; and d) determining if sequence IDs are interposed in sections between the first and last sections of the track in sequential order. However, Bersson discloses embedding copy protection information into copy control field of each track so that copyrighted tracks can be protected (Bersson: column 1 lines 57-65: consult the table of content for the location of the track and check the

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control field to determine whether it is copy-protected). It would have been obvious to one having ordinary skill in the art at the time of applicant's invention to place the watermark within the control field of each track because watermark and the control field are both used to detect whether a data is copy-protected. Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to combine the teachings of Bersson within the system of Cookson because it prevents unauthorized copying of each CD track by examining the copy protection information prior to recording. Bersson as modified does not explicitly disclose determining if the sequence IDs are interposed in sequential order. However, Spitz discloses determining the address value of each sector to check whether a CD is copy protected and the copy control information is arranged preceding and/or succeeding a sector storing copy-protectable information (Spitz: column 2 lines 10-36: check the sequence IDs; column 2 lines 46-55: the copy control information are arranged in lead-in area and/or the lead-out area). Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to check whether the address of sectors are arranged in correct order and the copy control information, such as watermark, can be placed in the lead-in or lead-out section because lead-in/lead-out sections because they are used to determine whether copy protection is present. Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to combine the teachings of Spitz within the combination of Cookson-Bersson because different copy protection method can be applied together to enhance the protection.

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7. As per claim 2, Cookson as modified disclose the method of claim 1. Cookson as modified further discloses including the additional step of providing at least a preliminary authorization of a rendering of the track if the determinations in steps c and d are both positive (Cookson: column 7 lines 6-12: if data passes the test, then authorize copying).

8. As per claim 4, Cookson as modified discloses the method of claim 2. Cookson as modified further discloses wherein subsequent digital tracks that are authorized are rendered with zero time gap interposed therebetween (Cookson: column 3 lines 60-65: there are no restriction if conditions are met).

9. As per claim 5, Claim 5 encompass the same scope as claim 1. Therefore, claim 5 is rejected based on the reason set forth in claim 1.

10. As per claim 6, Cookson as modified discloses the method of claim 5. Cookson as modified further discloses the method comprising the steps of: c) converting the mixed watermark data and data stream to a digital form (Cookson: figure 1 A/D converter); and d) recording the track in a recording medium (Cookson: column 7 lines 33-38).

11. As per claim 7, Cookson as modified discloses the method of claim 6. Cookson as modified further discloses wherein the recording medium is a compact disc and the data stream comprises music data (Cookson: column 7 lines 33-48).

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12. As per claim 8, Cookson as modified discloses the method of claim 6. Cookson as modified further discloses wherein the step of recording the track in a recording medium includes recording a sequence ID in each of the sequential track sections (Spitz: column 2 lines 11-28), the sequence ID identifying the sequential position of the respective track section in the track (Spitz: column 2 lines 11-28).

13. As per claim 9, Cookson as modified discloses the method of claim 6. Cookson as modified further discloses wherein the step of recording the track in a recording medium includes recording a sequence ID in each of the sequential track sections (Spitz: column 2 lines 11-28), the sequence ID identifying the sequential position of the respective track section among a multiplicity of other tracks, each comprised of track sections (Spitz: column 2 lines 11-28).

14. As per claim 10, claim 10 encompass the same scope as claim 1. Therefore, claim 10 is rejected based on the same rationale as claim 1.

15. As per claim 11, Cookson as modified discloses the recording medium of claim 10. Cookson as modified further discloses wherein the recording medium is a compact disc (Cookson: column 7 lines 39).

16. As per claim 12, Cookson as modified discloses the recording medium of claim 10. Cookson as modified further discloses wherein each track section of the track includes sequence

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ID data that identifies the sequential position of the track section in the track (Spitz: column 2 lines 11-28).

17. As per claim 13, Cookson as modified discloses the recording medium of claim 12. Cookson as modified further discloses wherein the sequence IDs for the sequence of tracks sections beginning with the first track section and ending with the last track section are 1, 2, ..., n, where n is the number of track sections in the track (Spitz: column 2 lines 11-28).

18. As per claim 14, Cookson as modified discloses the recording medium of claim 10. Cookson as modified further discloses wherein each track section of the track includes sequence ID data that identifies the sequential position of the respective track section among a multiplicity of other tracks, each comprised of track sections (Spitz: column 2 lines 11-28).

19. As per claim 15, Cookson as modified discloses the recording medium of claim 14. Cookson as modified further discloses wherein the sequence IDs for the sequence of tracks sections beginning with the first track section and ending with the last track section are n, n+1, ..., n+m, where n is the sequence ID for the first track section and m is the number of track sections in the track (Spitz: column 2 lines 11-28).

20. As per claim 16, Cookson as modified discloses the recording medium of claim 10. Cookson as modified further discloses wherein the track of data comprises music data (Cookson: column 2 lines 7-14).

21. As per claim 17, Cookson as modified discloses the recording medium of claim 16.

Cookson as modified further discloses wherein the track of data comprises music data and watermark data that is mixed and converted into a digital form prior to recording to the track (Cookson: figure 1: A/D converter).

22. As per claim 18, Cookson discloses a method for determining the authorization of the rendering of a digital recording, the method comprising the steps of: decoding a watermark and determine if the fragile watermark has been tampered (Cookson: column 4 lines 35-54: using the weak watermark bits to determine whether it is copy protected). Cookson as modified does not explicitly disclose a) decoding a watermark from a first section of a track; b) determining if at least one reserved bit is marked in the watermark in the first section of the track; and c) denying authorization if the determination in step b is negative. However, Bersson discloses embedding copy protection information into copy control field of each track so that copyrighted tracks can be protected (Bersson: column 1 lines 57-65: consult the table of content for the location of the track and check the control field to determine whether it is copy-protected). It would have been obvious to one having ordinary skill in the art at the time of applicant's invention to place the watermark within the control field of each track because watermark and the control field are both used to detect whether a data is copy-protected. Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to combine the teachings of Bersson within the system of Cookson because it prevents unauthorized copying of each CD track by examining the copy protection information prior to recording. Bersson as modified does

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not explicitly disclose determining if the sequence IDs are interposed in sequential order.

However, Spitz discloses determining the address value of each sector to check whether a CD is copy protected and the copy control information is arranged preceding and/or succeeding a sector storing copy-protectable information and denying authorization if the determination is negative (Spitz: column 2 lines 10-36: check the sequence IDs; column 2 lines 46-55: the copy control information are arranged in lead-in area and/or the lead-out area; column 3 lines 16-18: abortion means for aborting the playback of digital data depending upon verification). Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to check whether the address of sectors are arranged in correct order and the copy control information, such as watermark, can be placed in the lead-in or lead-out section because lead-in/lead-out sections because they are used to determine whether copy protection is present. Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to combine the teachings of Spitz within the combination of Cookson-Bersson because different copy protection method can be applied together to enhance the protection.

23. As per claim 19, Cookson discloses a method for making a digital recording comprised of a track having a number of sections positioned sequentially, including a first track section and a last track section, the method comprising: mixing watermark data with the data stream (Cookson: column 4 lines 35-54). Cookson does not explicitly disclose a) providing a data stream for recording in the track; and b) mixing watermark data with the data stream, the watermark data having at least one reserved bit corresponding to a position in each of the track sections, the

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reserved bit being marked in the watermark data corresponding to the first track section. Bersson discloses embedding copy protection information into copy control field of each track so that copyrighted tracks can be protected (Bersson: column 1 lines 57-65: consult the table of content for the location of the track and check the control field to determine whether it is copy-protected). It would have been obvious to one having ordinary skill in the art at the time of applicant's invention to place the watermark within the control field of each track because watermark and the control field are both used to detect whether a data is copy-protected. Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to combine the teachings of Bersson within the system of Cookson because it prevents unauthorized copying of each CD track by examining the copy protection information prior to recording. Bersson as modified does not explicitly disclose determining if the sequence IDs are interposed in sequential order. However, Spitz discloses determining the address value of each sector to check whether a CD is copy protected and the copy control information is arranged preceding and/or succeeding a sector storing copy-protectable information and denying authorization if the determination is negative (Spitz: column 2 lines 10-36: check the sequence IDs; column 2 lines 46-55: the copy control information are arranged in lead-in area and/or the lead-out area; column 3 lines 16-18: abortion means for aborting the playback of digital data depending upon verification). Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to check whether the address of sectors are arranged in correct order and the copy control information, such as watermark, can be placed in the lead-in or lead-out section because lead-in/lead-out sections because they are used to determine whether copy protection is present. Therefore, it would have been obvious to one having ordinary skill in

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the art at the time of applicant's invention to combine the teachings of Spitz within the combination of Cookson-Bersson because different copy protection method can be applied together to enhance the protection.

Response to Arguments

24. Applicant's arguments filed 5/2/06 have been fully considered but they are not persuasive.

25. Regarding applicant's remarks, applicant argues that the prior art of record do not disclose the watermark data having at least one reserved bit. However, the examiner relies on the combination of Cookson and Bersson to generate a watermark data in the copy control field to indicate whether copy is allowed or prohibited (Cookson: column 4 lines 35-54 and Bersson: column 1 lines 57-65). In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Therefore, applicant's argument is respectfully traversed.

26. Furthermore, applicant is advised to incorporate all of the limitations disclosed in claim 3 into all independent claims to explicitly disclose claimed invention and more clearly describe invention. Certain independent claims disclose method for determining the authorization of the rendering of a digital recording without specifying upon what conditions would authorization be determined.

Conclusion

27. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Davis et al. U.S. Pat. No. 6611607 discloses *embedding watermark in a audio track to encode copy control flags to control copying, playback, or recording of audio/video data* (Davis: column 10 lines 50-61).

28. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shin-Hon Chen whose telephone number is (571) 272-3789. The examiner can normally be reached on Monday through Friday 8:30am to 5:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on (571) 272-3795. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Shin-Hon Chen
Examiner
Art Unit 2131

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